

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RAYMOND LLOUE,

Petitioner,

V.

JO GENTRY,

Respondents.

Case No. 2:17-cv-03093-APG-CWH

ORDER

Petitioner has submitted an application to proceed in forma pauperis (ECF No. 1) and a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. The court finds that petitioner is unable to pay the filing fee. The court has reviewed the petition, and the court will dismiss this action. See 28 U.S.C. § 2243.

When petitioner commenced this action, he was in state prison, due to be paroled, and informed that Immigration and Customs Enforcement had filed an immigration detainer. For this court to have jurisdiction over petitioner's claims, petitioner would need to be in the custody of an officer of Immigration and Customs Enforcement. See 28 U.S.C. § 2241(c). A detainer placed upon Petitioner by Immigration and Customs Enforcement does not place him in the custody of that agency. Campos v. I.N.S., 62 F.3d 311, 314 (9th Cir. 1995). If petitioner is still in state prison, then he is not in Immigrations and Customs Enforcement custody, and this court lacks jurisdiction.

1 On the other hand, it appears that petitioner has been paroled.¹ To the extent that the court
2 can construe the petition to claim that the court should intervene in the removal proceedings, this
3 court lacks jurisdiction. 8 U.S.C. § 1252(g). Judicial review of an order of removal is through a
4 petition for review filed in the court of appeals. 8 U.S.C. § 1252(a).

5 Reasonable jurists would not find the court's conclusion to be debatable or wrong, and the
6 court will not issue a certificate of appealability.

7 Confusion exists over petitioner's surname. The court's docket has it as "HOUE." The
8 website of the Nevada Department of Corrections has it as "INOUE." Petitioner himself spells it
9 "LLOUE," based upon the caption of the application to proceed in forma pauperis. The court will
10 change petitioner's name on the docket.

11 IT THEREFORE IS ORDERED that the application to proceed in forma pauperis (ECF
12 No. 1) is GRANTED. Petitioner need not pay the filing fee of five dollars (\$5.00).

13 IT FURTHER IS ORDERED that the clerk of the court shall file the petition for a writ of
14 habeas corpus pursuant to 28 U.S.C. § 2254.

15 IT FURTHER IS ORDERED that this action is **DISMISSED** for lack of jurisdiction. The
16 clerk of the court shall enter judgment accordingly and close this action.

17 IT FURTHER IS ORDERED that a certificate of appealability will not issue.

18 IT FURTHER IS ORDERED that the clerk of the court change petitioner's surname from
19 "HOUE" to "LLOUE."

20 DATED: May 25, 2018



21 ANDREW P. GORDON
22 United States District Judge

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28 ¹ <http://167.154.2.76/inmatesearch/form.php> (ID # 1178986, report generated May 24, 2018).